IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 19512 of 2004

Between:

P.Venkataiah S/o.Late Ram Chandraiah
R/o.Kamsal Nagar, Kodad, Nalgonda District.

..... PETITIONER

AND

1 APSRTC, Suryapet Division, Suryapet Nagonda, District. Rep by its Divisional Manager.
2 The Depot Manager, APSRTC Bus Depot, Kodada, Nalgonda.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of writ of Certiorari and quash the impugned Proc.No.P2/114(1)/02-KDD Dt.5.4.2003 as confirmed by the 1st respondent vide Proc.No.PA/19(117) 04-DVM-SPRT dt.29.9.2004, as arbitrary, unjust, in violation of Art.14,16, and 21 of the Constitution of India and also in violation of Reg.12 (2)of C.C and A.Reg of APSRTC 1967 and consequently direct the respondents to restore the deferred increment along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court made the following :

ORAL ORDER:

The petitioner is working as a Driver in the respondent- Corporation. A charge memo was issued to him for abusing one Mr. M.V.B.Chary, a duty controller, in filthy and un-parliamentary language on 21-12-2002. The petitioner submitted his explanation. The grievance of the petitioner is that the respondent without considering the circumstances explained by him through his explanation and without conducting any enquiry, passed the impugned order stopping two annual increments with cumulative effect. The petitioner preferred an appeal before the first respondent challenging the order of the first respondent, and it was rejected on 29-09-2004. The petitioner, therefore, approached this Court through this writ petition to declare that the proceedings of the first respondent dated 29-09-04 as illegal, arbitrary and violative of the principles of natural justice.

The petitioner contends that the punishment imposed on him is a major penalty. It cannot be imposed without conducting any enquiry. The first respondent without conducting any enquiry imposed the said punishment. Therefore, it amounts to violation of the rules as well as the principles of natural justice. The respondents did not place any material to show whether any enquiry was conducted subsequent to the explanation filed by the petitioner. In the absence of such material, it has to be held that the first respondent failed to follow the procedure prescribed under the rules and regulations. Therefore, the impugned order dated 29-09-04 is not sustainable under law.

Having regard to the facts and circumstances of the case, I am inclined to modify the punishment of stoppage of two increments with cumulative effect imposed on the petitioner into one of stoppage of two increments without cumulative effect.

The Writ Petition is accordingly disposed of. No order as to costs.

_____ Dr.G.YETHIRAJULU, J.

Dated: 26th October, 2004.

*TSNR

To

1 APSRTC, Suryapet Division, Suryapet Nagonda, District. Rep by its Divisional Manager.
2 The Depot Manager, APSRTC Bus Depot, Kodada, Nalgonda.

3. Two C.D. Copies